



**National Crime Prevention and Privacy Compact
COMPACT COUNCIL MEETING
ALBUQUERQUE, NEW MEXICO
NOVEMBER 2-3, 2005
MINUTES**

Ms. Donna M. Uzzell, Chairman, National Crime Prevention and Privacy Compact Council (Council), called the Council meeting to order at 9:00 a.m. on November 2, 2005, in the Albuquerque Marriott Pyramid North in Albuquerque, New Mexico.

Mr. Todd C. Commodore, FBI's Compact Officer, conducted roll call of the Council members. The following Council members, or their proxies, were in attendance.

State Compact Officers:

- Mr. Paul Heppner, Georgia Bureau of Investigation
- Mr. Jeffrey R. Kellett, New Hampshire State Police
- Ms. Julie LeTourneau, Minnesota Bureau of Criminal Apprehension
- Captain Timothy McGrail, Missouri State Highway Patrol
- Lt. John O'Brien, New Jersey Division of State Police
- Ms. Dawn Peck, Idaho State Police
- Mr. David Sim, Kansas Bureau of Investigation
- Mr. Michael Timmerman, Arizona Department of Public Safety
- Ms. Donna Uzzell, Florida Department of Law Enforcement

State/Local Noncriminal Justice Agency Representative:

- Mr. Robert Finlayson III, Georgia Department of Human Resources

State/Local Criminal Justice Agency Representative:

- Ms. Robyn Lyles, Maryland Department of Public Safety and Correctional Services (proxy for Ms. Carole Shelton)

Federal Noncriminal Justice Agency Representative:

- Ms. Kathy Dillaman, Office of Personnel Management

CJIS Advisory Policy Board (APB) Representative:

- Mr. William Casey, Boston Police Department

Federal Bureau of Investigation:

- Mr. Thomas E. Bush, III, FBI, CJIS Division

Mr. Commodore recognized new members to the Council, new State Compact Officers, and state repository representatives.

Other meeting attendees introduced themselves and the agency they represented.
(Attachment 1)

Next, the Council approved the minutes from the May 11-12, 2005, meeting with the change on page 12 of the minutes to read that the official IAFIS noncriminal justice agency audits begin no *earlier* than October of 2008.

Compact Council Action: Mr. Jefffrey R. Kellett moved to approve the May 2005 minutes as amended. Seconded by Mr. Paul Heppner. The motion carried.

Mr. Thomas E. Bush, III, FBI staff, reviewed the applicable portions of the Council's Bylaws in order to conduct the election for the position of Chairman and then opened the floor for nominations. Mr. Paul Heppner nominated Ms. Donna Uzzell and the nomination was seconded by Mr. Michael Timmerman. No other nominations were made for Chairman.

Compact Council Action: Mr. William Casey moved to close the nominations for Chairman. The motion was seconded by Mr. Jeffrey R. Kellett. Ms. Uzzell won the election by acclamation.

Chairman Uzzell then reviewed the portions of the Bylaws applicable to conduct the election for the position of Vice-Chairman and then opened the floor for nominations. Mr. Jeffrey R. Kellett nominated Mr. David Sim and the nomination was seconded by Ms. Kathy Dillaman. No other nominations were made for this position.

Compact Council Action: Mr. Paul Heppner moved to close the nominations for Vice-Chairman. The motion was seconded by Mr. William Casey. Mr. David Sim won the election by acclamation.

Chairman Uzzell noted that an additional topic would be added to agenda. Mr. Wilbur Rehmann and Mr. George Peterson were in attendance and provided an update on the Transportation Security Administration.

Additional Topic Transportation Security Administration (TSA)

Mr. George Peterson, TSA, provided an update on the TSA program. According to Mr. Peterson, the TSA has processed over 130,000 Hazardous Material applications to date. He explained the average processing time for an applicant submission has been reduced to nine days. This time frame includes when TSA receives the application to when the letter and notification is sent to the state, and then forwarded to the driver. Mr. Sim asked if additional information was available on the rejection rate or the appeal process. Mr. Peterson explained the two separate segments of the appeals processes - the adjudication process and the post adjudication process. Approximately 700 of the 130,000 drivers have been disqualified, which is about one-half of one percent of all applicants.

Mr. Rehmann stated that TSA is performing incremental enhancements to their systems and TSA is operating more smoothly. TSA has one system and network for the 30 states who were using a vendor, and approximately 19 separate systems that they had to integrate into their gateway to determine how the response will be returned. Mr. Rehmann added during the last Congressional session, American Trucking Association proposed an amendment to the highway bill to discontinue performing fingerprint-based checks and move toward a name-based check. The resolution of that amendment was that TSA conduct a study to determine the time it takes for drivers to receive the response and then provide Congress with a report. Mr. Rehmann wanted the Council to be aware that there were going to be attempts by the transportation industry to conduct name-based checks instead of the fingerprint-based checks. He also noted that TSA does not support the change.

Compact Council Action: This topic was accepted as information only.

Topic #1 Standards Committee Report on a Guide for Fingerprint Submitting Agencies to Use When Establishing a Fingerprint Applicant Identity Verification Program

Mr. Scott S. Phillips, FBI staff, presented information about the Standards Committee's development of a guide for fingerprinting agencies to use to establish a fingerprint applicant identity verification program. (**Attachment 2**) The FBI staff briefed the Council in Denver, Colorado, at its November 2004 meeting outlining the initial research on this topic. In March 2005, the first draft of the guide was presented to the Standards Committee who made suggestions and changes to the guide. In addition they requested that the guide be reviewed by the CJIS APB Regional Working Groups for their input and review during the fall 2005 meetings. At the August 2005 Standards

meeting, the FBI's Council staff presented a revised draft to the Standards Committee and additional changes were made at that time. For this meeting, FBI's staff provided an updated version of the guide that incorporated all the changes and recommendations to it for review and approval by the Council.

Mr. Heppner explained that the guide will be a living document that will continue to be improved and refined as a resource and reference document for fingerprinting agencies and contractors. Mr. Phillips noted that one comment from the CJIS APB Regional Working Group meetings stressed that the document serve as a guide and not as a requirement. Mr. Heppner explained the intent of the Standards Committee was to provide a reference guide for the states and Federal government to use in developing their own internal policies and procedures for such a program.

Mr. Robert Finlayson requested clarification regarding the use of state identification cards in the absence of a valid, current state driver's license. Mr. Commodore and Mr. Heppner agreed to have a statement regarding the use of state identification cards as an alternate primary form of identification to be included in the guide.

The Council agreed to have the FBI's Council staff include the guide on the Council's website. In addition, the Council recommended that the FBI staff create a brochure based on the information contained in the guide.

Compact Council Action: Accepted for information only.

Topic #2 **Standards Committee Report on a Notice on Combined Security and Management Control Outsourcing Standard (Standard)**

Mr. James Princeton Gray, FBI staff, presented this topic. Mr. Gray noted that the draft Outsourcing Final Rule was approved at the May 2005 Council meeting; however, it will not be published in the Federal Register until the Standard is approved by the Council.

In May 2005, the Council reviewed and accepted a combined Standard with the understanding that it would be revised to include certain changes as a result of the Council's review of the 12 comments received on the Standards. A motion was made to publish the Council's response to the comments and the revised combined Standard in the Federal Register. A draft Federal Register Notice and the revised combined Standard were presented to the Standards Committee at its August 2005 meeting. The Standards Committee approved a motion to accept the Notice and combined Standard and

recommended to the Council publication in the Federal Register. Following the Standards Committee meeting, comments were provided by the Department of Justice's (DOJ) Office of Legal Policy (OLP) suggesting revisions to the "Discussion of Comments on the Notice" in the Supplementary Information section of the draft Notice. FBI staff addressed the OLP's comments which are provided on pages three through seven of Attachment 1 to the staff paper. Mr. Gray requested the Council also consider a revision to the fifth comment on page four of the Notice. Mr. Gray also mentioned that based on a conversation with the Office of Federal Register, language in the Standard that was applicable to channelers only would be bolded rather than highlighted. Mr. Commodore stated that once the combined Standard is approved by the Council, the Outsourcing Final Rule and the combined Standard will be forwarded to the Federal Register simultaneously for publication.

Compact Council Action: Mr. David Sim moved to approve the Notice and combined Standard for publication in the Federal Register. Seconded by Mr. Paul Heppner. Motion carried.

Topic #3 Policy and Planning Committee Report

Mr. Allen Wayne Nash, FBI staff, presented the Policy and Planning Committee report. **(See Attachment 3)** Mr. Frank Campbell, DOJ, joined the meeting via teleconference. Mr. Nash informed the attendees that the Policy and Planning Committee held their inaugural meeting on July 27-28, 2005, in Washington, D.C. The purpose of the meeting was to discuss the Council's response to a Notice in the Federal Register by the DOJ requesting for comments to Section 6403(d) of the Intelligence Reform and Terrorism Prevention Act. The Committee drafted recommendations that were presented to and approved by the Council via a teleconference on August 17, 2005. The comments were then submitted to the DOJ.

Mr. Campbell added that the DOJ received approximately 55 comments which will be considered in making the recommendations to Congress. It was noted that the comments are posted on the DOJ's Website, www.usdoj.gov. By law, a report is required by the Attorney General, which will address and make recommendations to Congress. Mr. Campbell added there will be other opportunities for people to directly provide comments on how Congress should change the law with respect to these issues.

Mr. Campbell asked for input from the Council on the following:

- ? How states who wish to allow access to employers might opt in and do that in their own state using the existing infrastructure?
- ? What will be the standards for methods of access and response?

- ? Should the standards be developed to identify new means of fingerprint capture so police stations are not the forum in which people go to get fingerprinted for this purpose?

Mr. Nash then provided revised language on the Policy and Planning Committee and Standards Committee charters and requested input from the Council. Mr. Nash noted that specific issues would be forwarded to the Council for a decision only after the appropriate committee or committees discussed the issues and recommendation(s). Mr. Nash noted that the next meeting of the Policy and Planning Committee is tentatively scheduled for March 30, 2006, in Las Vegas, Nevada, and it will be in conjunction with the Standards Committee meeting.

Compact Council Action: This topic was accepted as information only.

Topic #4 **Standards Committee Report on a Policy Allowing Single National and Multiple State Background Checks**

Mr. Commodore, presented this topic, which was initially discussed at the Council's User Fee Ad Hoc Committee meeting. Mr. Commodore noted that Chairman Uzzell was tasked to provide a mechanism for national channelers to conduct a single national check for licensing purposes across several states simultaneously. During the Standards Committee discussion of this topic, they raised concern regarding the unique situation to one specific type of channeler.

Mr. Commodore referred the Council to a model (**Attachment 4**) depicting the process. He explained that after the Council determined the license and identified the contractors that would be served, these individuals would be licensed in several states. It was understood that any contractor that falls into this category would be one of the pre-approved FBI channelers which falls under the purview of the Council's Outsourcing rule. These channeling agencies will have a direct connection to the FBI and establish a relationship with the FBI. The Standards Committee made a recommendation to establish a policy that would authorize certain industries to share national fingerprint check results with states having approved Public Law (Pub. L.) 92-544 based on a single fingerprint-based check by the FBI. The Standards Committee recommended an additional requirement to the policy that stated the dissemination of fingerprint-based check results would be limited to Pub. L. 92-544 states that were specified at the time of fingerprinting.

Mr. Commodore added that any channeler operating in a state will have to establish an outsourcing agreement with each of the states. The channeler will still be required to

execute an outsourcing agreement with each state. Ms. Dillaman then requested information about who would maintain the disclosure of which states receive criminal history records. Mr. Commodore responded it would be the contractor's responsibility for tracking which states receive the information, as well as executing the Council's management control standard.

Compact Council Action: Ms. Dawn Peck moved to endorse the policy change. Seconded by Paul Heppner. Motion carried.

Topic #5 **Quality Check (QC) Automation**

Ms. Debbie M. Chapman, FBI staff, provided an overview of the QC Automation process. Ms. Chapman noted that the CJIS Division was tasked to reduce the amount of review time in the QC function of IAFIS and to reduce the number of rejections.

(Attachment 5) Prior to June 2004, every ten-print transaction was processed through a manual QC review. In June 2004, phase one automated approximately two percent of the transactions and subsequently, the workload was reduced by about two percent, which totaled approximately 30,000 transactions a month. The second phase was implemented in June 2005, which automated six types of transactions. These implemented phases automated approximately 34 percent of the criminal fingerprint submissions and 50 percent of the civil fingerprint submissions. The automated processing time was decreased to 0.12 seconds. Part of phase three has been implemented with Georgia being the first state to use the standardized reasons fingerprinted. The Next Generation IAFIS (NGI) will consider another phase of the automation of QC process, which will compare the reason fingerprinted to state statutes.

Compact Council Action: This topic was accepted as information only.

Topic #6 **Automation of Manual Name Checks in IAFIS**

Ms. Chapman presented the topic regarding the automation of manual name checks in IAFIS. **(Attachment 6)** Ms. Chapman noted that the FBI is trying to handle the demand for faster response times with an increasing workload. Manual name checks started shortly after IAFIS implementation and were designed to accommodate people who have poor fingerprint quality. In order to request a name-based check, local or state agencies must be authorized and have the legal authority to submit ten-print transactions for noncriminal justice purposes. Ms. Chapman stated it is anticipated this automation process will be implemented two years after approval. Mr. Heppner noted that the Standards Committee also approved this enhancement to automate the name-based checks, along with the Identification Services Subcommittee of the CJIS APB.

Compact Council Action: Mr. Paul Heppner moved to endorse the recommendations by the Standards Committee. Seconded by Ms. Kathy Dillaman. Motion carried.

Standards Committee Recommendations:

- 1) To approve the enhancement to automate the name check program service in the IAFIS with the caveat that the Concept of Operations be changed to immediately invoke the manual process;
- 2) Approve the State Identification Bureaus (SIB) providing the service of forwarding the name check results to the appropriate agencies; and
- 3) Request more information on the error rate percentages across the nation for fingerprint image quality.

Topic #7 Modification of the IAFIS to Utilize State Records When States Can Respond

Ms. Paula A. Barron, FBI staff, discussed the modification to IAFIS to request the state maintained record from any state that can provide its records for noncriminal justice purposes. This topic will also be presented at the spring 2006 CJIS APB Regional Working Group meetings for their discussion and input. Ms. Barron noted that as of September 4, 2005, 25 of the 48 Interstate Identification Index (III) states can respond to record request transactions for noncriminal justice purposes. (**Attachment 7**)

Ms. Barron discussed the process flow through III for current record requests from an SIB using Purpose Codes "I" and "X." In addition, she provided an overview of the process involved in record responses to an electronic fingerprint submission. Mr. Commodore noted that III record requests using Purpose Code I or X currently include 25 states that provide their records for those purpose codes. However, for fingerprint responses, the FBI responds with arrest information that has been provided by the states with this exception of National Fingerprint File (NFF) states.

Compact Council Action: Ms. Dawn Peck moved to authorize the FBI to explore the feasibility to respond and have IAFIS respond in the same manner as is currently accomplished through a III Purpose Code "I" or "X" transaction. Seconded by Mr. David Sim. Motion carried.

Mr. Commodore explained that this issue will be handled in more detail in spring 2006 regarding the programming involved, the impact to the states, and capacity issues that states may need to consider.

A related issue for the Council to consider involved the issue of the Compact states that do not respond to Purpose Code I record requests.

Compact Council Action: Mr. Bush moved to request from the states the status of the states ability to respond to III Purpose Code "I" transactions. Seconded by Mr. Heppner. Motion carried.

Topic #8 **Proposal to Notate the Origin of Name or Descriptive Information From Non-Retain Fingerprint Submissions on FBI Identification Records**

Mr. Phillips, discussed the proposal to note the origin of name or descriptive data and information from non-retain fingerprint submissions on an FBI identification record. The CJIS APB requested that the Council examine this issue and make appropriate recommendations for the CJIS APB to consider.

This proposal discussed five options for changing the IAFIS regarding situations when a positive identification is made based on a nondisseminable fingerprint submission. Any name or descriptive data from that submission that is not included in the current FBI identification record is updated and added to the IAFIS without displaying the origins of the data. The origins are available to internal FBI service providers and other authorized internal FBI users. However, the origins of the identifiers are not displayed for external users. The III responses include this additional alias information from non-disseminable fingerprint submissions along with the master name and other identifiers. The absence of the origin of this additional alias information has caused confusion for the recipient of the FBI identification record and III responses. Under the proposed enhancement, the origins of the new identifiers would be contained in the record, thereby alleviating confusion over the source of the additional data and identifiers.

Mr. Phillips explained that the Identification Services (IS) Subcommittee recommended option four which proposes to amend the record to reflect the Originating Agency Identifier (ORI) or Contributing Agency Identifier (CRI) for each name or descriptive piece of information that has been updated as a result of a non-disseminable fingerprint submission. Mr. Heppner added that each CJIS APB Regional Working Group and the Council's Standards Committee also recommended option four.

Mr. James Gerst, FBI staff, added that if this change is approved by the CJIS APB, the change will need to be incorporated by the Joint Task Force on Rap Sheet Standardization for inclusion into the standardized rap sheet. He estimated programming time for this enhancement to be approximately 18 to 24 weeks. Mr. Commodore added that the states will receive a 12 month notice before any changes occur and are implemented.

Compact Council Action: Mr. Paul Heppner moved to support option four. Seconded by Mr. Robert Finlayson. Motion carried.

Option Four: To amend the record to reflect the ORI/CRI of the submission, but not the complete civil or criminal cycle for the non-disseminable submission.

ALIAS NAME(S)	OTHER BIRTH DATES
SMITH, JOHN - XX000000Z	03/12/1958-XX000000Z

Each state processes its civil/applicant and criminal non-retain submissions differently, and many do not retain the fingerprint cards at all. The proposed enhancement would provide documentation regarding the source of this information.

Topic #9 **Proposal to Reintroduce the Interstate Identification Index (III) Sealing Program**

Ms. Barron provided information regarding the proposal to reintroduce the III sealing program. She stated that the III record sealing program was approved in June 1992, as part of the NFF pilot program. Currently, the sealing program is open to only the NFF states. New Jersey and Florida have sealing programs in accordance with state law and policies requiring sealing at the national level. The FBI's plan was to implement the sealing capability in three stages; NFF states, other III states, and Federal records.

Ms. Barron explained the current record sealing program procedures permit the NFF state to seal a single category of records for a specific purpose and then the entire record would be sealed for that purpose. Ms. Barron states that the FBI is ready to proceed with its plans to expand the sealing program to other states with statutory authority or requirement to seal criminal history records.

Ms. Barron noted the CJIS Division receives requests from states to seal a single arrest cycle and the only way is make it unavailable at the national level for any purpose. Ms. Barron proposed two options to part two: part 2A would broaden the sealing capability to add the ability to seal a single arrest cycle within a criminal history record for a particular purpose; part 2B would modify the IAFIS Electronic Fingerprint Transmission Specification for criminal fingerprint submissions to include a record sealing request in a criminal fingerprint submission.

It was noted the Standards Committee and the CJIS Regional Working Groups

and IS Subcommittee endorsed 2A and 2B.

Compact Council Action: Mr. Paul Heppner moved to support the Standards Committee Action. Seconded by Mr. Jeffrey R. Kellett. Motion carried.

To move forward with 2A and 2B with the additional request that the CJIS Division analyze adding a caveat that an arrest cycle is sealed.

Topic #10 **Standards Committee Report on a Request to Utilize the "Delayed Fingerprint Submission Requirements Rule" for Tennessee's Families First Kinship Care Program**

Mr. Danny R. Moye, Office of the General Counsel, presented Tennessee's request to utilize the delayed fingerprint submission requirements rule for *Tennessee's Families First Kinship Care Program*. Tennessee requested that the Council expand the Fingerprint Submission Requirements rule that was passed in October 2000 to allow the Tennessee Families First Kinship Care Program the authority to perform an initial name-based checks of family members that might be taking the children at risk. The Standards Committee discussed this issue and determined that although an emergency situation would not exist because a judge or court will be involved, the judge should have the option to conduct a name-based check of family members that might be providing the care. This recommendation was endorsed by the Access Integrity Unit (AIU) and is an action item for the Compact Council to consider. It was also noted that future requests under this same category may be approved by the FBI Compact Officer, with the assistance of the of the AIU, at the Council's request.

Compact Council Action: Mr. Robert Finlayson moved to approve the Standards Committee's recommendation that Tennessee's request fall under the current rule and that no further amending action is required. Seconded by Mr. Paul Heppner. Motion carried.

Topic #11 **Review of User Fee Task Force Survey Responses**

Mr. Owen Greenspan, The National Consortium for Justice Information and Statistics (SEARCH), provided the results on the Council's User Fee Task Force survey, in which 42 states participated. (**Attachment 8**) The survey collected information about the amount of fees charged by states; whether applicant processing includes a query of sex offender registry, want/warrant file, protection order file; whether all criminal history record information (CHRI) information is disclosed; and repository/agency functions. The data revealed that 21 states permit name-based searches of databases

from terminals, 32 states conduct name-based searches of databases using a form submitted to the repository, and 28 states routinely conduct name-based searches as part of fingerprint processing and use the fingerprints to verify possible name hits. In addition, 12 states reported retaining applicant fingerprints cards and sending a rap sheet upon request; and 13 states include state want/warrant file searches. Twenty-five of the 42 responding states, provided that user fees support their state repository operations. In addition, these fees support the information technology staff, the sex offender registry, and the trainers within the agency. Additionally, Chairman Uzzell and Mr. Greenspan discussed placing the results on the SEARCH and/or Council Web sites.

Compact Council Action: This topic was accepted as information only.

Topic #12

Purpose Code X Usage Related to Hurricane Katrina
Discussion on Backgrounding of Contractors in the Aftermath
of Hurricane Katrina

Mr. Commodore presented information pertaining to the III Purpose Code X usage as a result of Hurricane Katrina. **(Attachment 9)** In the aftermath of Hurricane Katrina, the CJIS Division received numerous requests from states for the authority to conduct name-based and fingerprint-based background checks on evacuees, relief workers, or volunteers with access to children. The Council's Executive Committee and the FBI's Compact Officer collaborated to allow states affected by Hurricane Katrina the interim authority to use the Council's Fingerprint Submission Requirements Rule, which authorizes states with appropriate legislation the authority to conduct temporary name-based background checks of the III to be followed by fingerprint submissions. Those states which requested and received subsequent temporary authority to conduct background checks were required to submit fingerprints within 15 calendar days of the initial III name-based check using Purpose Code X. States were allowed temporary authority for Hurricane Katrina purposes from September 7, 2005, through November 7, 2005. The CJIS Division also agreed to waive the user fee for processing the associated follow-up fingerprints received during this time period.

The information in Attachment 9 contains a "white paper" that provides an explanation about the level of devastation and the unprecedented number of individuals that were displaced across the country. Ms. Uzzell requested that the "white paper" be included in the minutes of the Council meeting as a record of the Council's actions for future generations to use as a resource. She explained the importance of this unprecedented temporary authority to use the Fingerprint Submissions Requirements Rule. In addition, she requested the information authorizing the temporary use of the Fingerprint Submission Requirements Rule would only be considered during extreme

cases of natural disasters.

Compact Council Action: Ms. Julie LeTourneau moved to request that the FBI alleviate the normal criminal history record information audit procedures relating to Purpose Code X and the required follow-up fingerprint submission for those instances involving Hurricane Katrina victims, volunteers, evacuees, etc., that covers the time from September 7, 2005 through December 31, 2005. Seconded by Mr. John O'Brien. Motion carried.

Topic #13 **Status of Task Force to Define the Criteria That Should be Used to Determine if Access to Interstate Identification Index (III) Data Falls Under the Administration of Criminal or Noncriminal Justice Purposes**

Mr. Gray, discussed the status of the task force to define the criteria used to determine if access to III data falls under the administration of criminal or noncriminal justice purposes. Mr. Jonathan Frenkel and Mr. Campbell joined the meeting via telephone. Mr. Gray stated that the clarification of the FBI policy authorizing III system Purpose Code C name-based checks of contractors or visitors entering Federal and/or state facilities for site and physical security purposes has been the subject of discussion at several Standards and Council meetings since October 2003. The issues of concern and discussions during the meetings included whether such checks are criminal justice, noncriminal justice, national security, or Purpose Code S, and whether such checks could be expanded to include visitors to state or local critical infrastructure facilities along with the authority for performing such checks.

Mr. Gray stated that at the November 2004 meeting, the Council requested the CJIS Division convene an ad hoc task force comprised of representatives of the Council, the CJIS APB, and the FBI to discuss and review the issues. In March 2005, during a meeting of this task force, CJIS APB Chairman Sleeter and Council Chairman Uzzell requested that the Council staff conduct research on whether the Security Clearance Information Act (SCIA) could be utilized to conduct III system name-based checks of contractors or visitors entering Federal or state facilities for site and physical security purposes. The Council staff completed the request in the form of a "White Paper." On September 13, 2005, the task force met via teleconference and concluded that the authority provided by the SCIA is limited to Federal agencies for conducting background checks of Federal employees and contractors. Additionally, the task force accepted a proposal to continue the status quo with regards to 1: continue the current method to establish policy and authority for III System Purpose Code C name checks by criminal

justice agencies, visitors, and contractors for purposes of site and physical security, of specified Federal and/or state facilities as an administration of criminal justice function, based on APB recommendations and FBI director approval; and 2: continue the authority of Security SCIA agencies to make determinations on whether particular Federal employees or contractors are subject to III System Purpose Code S name checks pursuant to the provisions of the SCIA. The participants also requested a topic paper be prepared listing all the previous CJIS APB recommendations approved by the Director that established the policy and authority for III System Purpose Code C name checks as administration of criminal justice functions for the spring 2006 Working Group meetings.

Compact Council Action: Accepted for information only.

Topic #14 **Two-Print Pilot with Department of State (DOS)**

Ms. Chapman presented information regarding the FBI and DOS' two-print fingerprint pilot study. (**Attachment 10**) Ms. Chapman discussed the DOS' current process for background checks of visa applicants for admittance to the United States. The DOS performs checks based on biographic information provided to them from FBI data extracts that is incorporated into the Consular Lookout and Support System (CLASS). CLASS is one system checked by DOS along with the Department of Homeland Security's (DHS) United States Visitor and Immigrant Status Indicator Technology (US-VISIT) system. Based on a hit(s) from screening these databases, DOS may submit fingerprints to the IAFIS. Both of these databases contain wanted person information and other information from the FBI provided to DOS. DOS' visa issuance process and the subsequent fingerprint-based check is considered a noncriminal justice function, thereby requiring the submission of fingerprints before DOS may receive CHRI. DOS was already capturing two-prints from its visa applicants to satisfy the US-VISIT requirements. DOS requested permission from the Council and the FBI to conduct a pilot using two-prints from select consulates with the FBI.

Ms. Chapman explained the two different types of pilot programs being conducted with DOS. The first pilot involves direct connectivity between DOS and the FBI that allows DOS to submit ten-flat fingerprints to the FBI. The cities participating include four in Mexico (Mexico City, Ciudad Juarez, Guadalajara, and Monterrey), and two in Saudi Arabia (Rihjad and Jeddah). The second pilot involves two-print fingerprint submissions to the FBI from three consular sites: San Salvador, El Salvador; Kingston, Jamaica; and London, England. From the two-print fingerprint pilot, the CJIS Division has received a total of 29 submissions. Of the 29, 28 were identified based on the quoted FBI numbers associated with the two-print submission. The other one received a

non-ident because the two index fingers were reversed. In addition, all 29 individuals were denied a visa. The FBI response time averaged between four to six hours.

Ms. Chapman also noted that DOS is participating in the interagency interoperability plan to transition to ten-flat fingerprints along with the DHS and the FBI.

Compact Council Action: Mr. William Casey moved to approve the recommendations as stated in the topic paper. Seconded by Mr. Paul Heppner. Motion carried.

Recommendations:

- 1) Continue to accept two-print submissions until the transition from two-prints to ten-print by the DHS has been completed.**
- 2) That DOS establish a requirement for all visa applicants to be fingerprinted for a complete IAFIS criminal history search.**
- 3) The development of a new Type of Transaction (TOT) for identity verification via a positive identification name-check of the two-print submission with a quoted FBI number.**

Mr. Bush added that he recently presented this information to Director Mueller who also met with the DHS Secretary to discuss the transition from two-prints to ten-flat fingerprints. In conjunction with DOS, DHS, and DOJ, the FBI is working on an interim solution to extract about 650,000 prints to DHS and to hopefully have full interoperability within two years to their IDENT system.

Topic #15 Sanctions Committee Report

Ms. Julie LeTourneau, Chair of the Sanctions Committee, reported that during the November 1, 2005, Sanctions Committee meeting, the Committee approved the publication of the Compact Council's Procedures for Compliant Conduct and Responsible Use of the III System for Noncriminal Justice Purposes final rule in the Federal Register as amended. Ms. LeTourneau reported the Committee reviewed the recently conducted IAFIS audits from four states based upon the proposed Sanctions rule. The Sanctions Committee reviewed the CJIS Audit Unit's (CAU) findings regarding the NFF states for NFF compliance, as well as other Compact-related compliance issues. The CAU also reported on audits of those states that signed a Memorandum of Understanding for compliance with the Compact and applicable Council rules. Additionally, the CAU reported on audits of the Compact signatory states

for compliance with the Compact and State NFF Qualification Requirements. The Sanctions Committee recommended sending letters to the audited states based on the aforementioned criteria and upon approval of the Council Chairman. If approved the letters will be sent after the Sanctions rule is published.

Next, the committee was provided with an update regarding the IAFIS pilot audit of noncriminal justice use of CHRI. The CAU was tasked to continue providing the Sanctions Committee with improvements and updates to the noncriminal justice pilot audit procedures. The Committee discussed the IAFIS noncriminal justice use of CHRI audit methodology training concept. The training concept included three options: 1) the FBI would host a train the trainer conference; 2) FBI training materials would be made available to states through various means such as a Web site or Leo; and 3) the FBI would host a train the trainer and states could opt in to that training if they chose to pay for their travel and expenses. It was noted that these options are all dependent on the FBI's ability to obtain the necessary resources. Finally, the CAU provided a broad overview of the outsourcing audit methodology.

Compact Council Action: This topic was accepted as information only.

Topic #16

Legislative Update

Mr. William Finch, Office of the General Counsel, provided the legislative update and highlighted the significant changes that have occurred since September 9, 2005. Mr. Finch stated there are six bills in Congress involving children's safety for protection against sex offenders. These bills authorize access to III by National Center for Missing and Exploited Children, authorize fingerprint-based checks of local and state educational agencies of individuals who work with or around children, authorize name-based checks of foster or adoptive parents of state child abuse registries, national crime information databases, and authorized educational agencies (read only access.) All changes are going to require significant training, connectivity, and scope of audit expansions. Some additional changes include HR 3910. Section 3 of that act will require states to conduct fingerprint-based state and national background checks of election officials who tabulate votes or certify the tabulation. The Scott Gardner Act (HR 3776) will require state motor vehicle administrators to enter information regarding all liens convicted of driving while intoxicated (DWI) violations into the NCIC. The remainder of that statute would permit the DHS to make determinations whether or not to expel aliens on the basis of the DWI. The Firearms Security Act proposes Congress is proposing to amend the gun control act to correct prohibiting the sale of a firearm to a person convicted of a felony in a foreign port. A caveat would be added that proclaims a one-year violation based on conduct that occurred in any state in the United States, the subject can be sentenced to more than a

year of confinement for the violation.

Compact Council Action: This topic was accepted as information only.

Topic #17 **Status Report on Pending Rules and Notices**
NFF Qualification Requirements Rule and Notice
Record Screening Rule
Notice on Compact Council Definition of Positive ID
Fingerprint Submission Requirements Rule

Ms. Barron provided a status report on the four impending rules and notices. The NFF Qualification Requirements Rule was published as a proposed rule with a 30-day comment period on June 22, 2005, in the Federal Register. No comments to the proposed rule were received. The Council was asked to endorse the Standards Committee recommendation to publish the rule as final using the same language.

Compact Council Action: Mr. Paul Heppner moved to endorse the Standards Committee recommendation for proposal of the NFF Qualification Requirements Rule as final using the proposed language and publication in the Federal Register. Seconded by Mr. Michael Timmerman. Motion carried.

Ms. Barron then provided status reports on the Record Screening Rule, Notice on Compact Council Definition of Positive ID, and the Fingerprint Submission Requirements Rule. The Records Screening Rule was published as final on June 22, 2005. The Notice on the Compact Council Definition of Positive ID was also published on June 22, 2005. The Fingerprint Submission Requirements amended final rule was published on June 22, 2005. The Federal Emergency Management Agency Notice was published on September 13, 2005. Lastly, Ms. Barron stated, the Sanctions Rule would be published as final in the very near future.

Topic #18 **Access to Department of Homeland Security (DHS) Information**
by Federal, State, and Local Criminal Justice, Intelligence, and
Noncriminal Justice Agencies

Ms. Chapman discussed the topic of access to DHS by local, state, and Federal criminal and noncriminal justice agencies. (**Attachment 11**) Ms. Chapman provided an overview on the background, current interoperability efforts, and full interoperability benefits between DHS and the FBI. The current interoperability efforts include the formation of the Interoperability Integrate Project Team; establishment of the guiding

principles; key policy assessment, concept of operations; business requirements, and the interim solutions.

Compact Council Action: This topic was accepted as information only.

Topic #19 **Next Generation IAFIS (NGI) Update**

Mr. Gary S. Barron, FBI staff, provided the NGI Update. (**Attachment 12**) Mr. Barron provided an overview of the NGI requirements call which included the identification, review, and final review processes. Additionally, he stated that the two cornerstones for NGI have been user definition and interoperability. With the help of the Council, CJIS APB, and state and local users, the FBI has been able to define the six NGI initiatives; QC automation, interstate photo system, mug shots, disposition reporting, improvements, and the advanced fingerprint technology, which includes a portion of the enhanced terrorist identification service.

Once all requirements are defined, a requirements evaluation team will be responsible for evaluating those requirements and categorizing them. Currently, the NGI program office is working to develop a detailed requirements management plan. Once the final product is identified and put into presentation format, it will be sent to the CJIS APB and Council for final review and recommendation.

Compact Council Action: This topic was accepted for information only.

Topic #20 **Advisory Policy Board Update**

Mr. Casey, Boston Police Department, provided a CJIS APB update. The CJIS APB met on June 15-16, 2005, in Dallas, Texas. Mr. Grant Ashley, the Executive Assistant Director of the FBI, provided opening remarks.

Mr. Casey highlighted a couple important issues on the agenda. This included NGI, Law Enforcement National Data Exchange, which is now under the CJIS Advisory Process, and the National Instant Background Check System, who is developing a nationwide major case contact center. This call center will be a networked integrated call center that will receive information submitted by the public across the U.S. to assist with current and future investigations. This tip line can only be activated via the approval and instructions of the Executive Assistant Director of the FBI.

Mr. Casey reported on three other CJIS APB topic with significant actions. The first topic is the request for support regarding audits using a three-hour window for

records with message Key EME and EMI. The CJIS APB moved to conduct a one-year cycle study on the entering of juvenile records with message key EME and EMI with no limitations regarding time frame. Additionally, the CAU will attempt to determine the reasons why records are not entered within the three-hour window. The second issue being the good cause extension to the NCIC 2000. Mr. Casey stated it has been five years since the target date was set and the CJIS APB is requesting for help from their partners to have the states become NCIC 2000 compliant. The third significant topic addressed was the encryption compliance update. The CJIS APB moved that correspondence be drafted and sent to all participating states to determine if they did or did not meet all encryption requirements by September 30, 2005. The states will be directed to forward their responses to the CJIS Division by October 1, 2005.

The next CJIS APB meeting will be at the Rosen Center in Orlando, Florida, on December 7-8, 2005.

Compact Council Action: This topic was accepted as information only.

OTHER BUSINESS

Mr. Commodore announced proposed upcoming meeting dates for the Council committees. The Standards Committee and Policy and Planning Committee meetings tentative location is Las Vegas, Nevada, on March 29-30, 2006. The next Sanction and Council meetings will be held on May 16-18, 2006, with a tentative location of Baltimore, Maryland. The fall Standards Committee and Policy and Planning Committee meetings are tentatively scheduled for August 16-17, 2006, in Charleston, South Carolina. And the next fall Council meeting is scheduled for November 6-8, 2006, which also includes Sanctions Committee in Oklahoma City, Oklahoma.

Compact Council Action: Mr. John O'Brien moved to adjourn the meeting. Seconded by Ms. Dawn Peck. Motion carried.

The meeting was adjourned at 12:09 p.m.